



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2011 Biennium

Bill #	SB0433	Title:	Revise opencut mining laws
Primary Sponsor:	Gebhardt, Kelly	Status:	As Introduced

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| <input checked="" type="checkbox"/> Significant Local Gov Impact | <input checked="" type="checkbox"/> Needs to be included in HB 2 | <input checked="" type="checkbox"/> Technical Concerns |
| <input type="checkbox"/> Included in the Executive Budget | <input type="checkbox"/> Significant Long-Term Impacts | <input type="checkbox"/> Dedicated Revenue Form Attached |

FISCAL SUMMARY

	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>	<u>FY 2012 Difference</u>	<u>FY 2013 Difference</u>
Expenditures:				
General Fund	\$238,841	\$230,161	\$235,451	\$245,279
Revenue:				
General Fund	\$0	\$0	\$0	\$0
Net Impact-General Fund Balance:	<u>(\$238,841)</u>	<u>(\$230,161)</u>	<u>(\$235,451)</u>	<u>(\$245,279)</u>

Description of fiscal impact:

This bill would add requirements for an applicant for a new opencut mining site to publish a public notice of the proposed operation and to mail notices to landowners within one-half mile of the proposed operation. If requests for a public meeting were received from 30% of these landowners, the Department of Environmental Quality (DEQ) would be required to hold a public meeting in the vicinity of the proposed operation. DEQ would review and incorporate public comments into the acceptability review of the application, and would be provided additional time to complete this activity under certain prescribed conditions. These additional procedures would require the equivalent of 3.00 FTE and contracted services of a court recorder.

FISCAL ANALYSIS

Assumptions:

Department of Environmental Quality

1. This bill would require that, within five business days of receiving an opencut mine permit application, DEQ would need to review the application for administrative completeness and notify the applicant whether the application was complete or not, and if not, identify all deficiencies.
2. This bill would add requirements for a permit applicant of a new opencut mining site (excluding amendment applications) to publish a public notice of the proposed operation in a newspaper in the locality of the proposed operation and to mail notices to landowners within one-half mile of the proposed operation. The applicant would be required to submit documentation of the notices as part of the

application. Therefore, the notices would need to be published and sent out prior to submittal of the application to DEQ. Within a prescribed time limit, if 30% of the landowners submitted requests to DEQ for a public meeting in response to the notices, or if the applicant made such a request, DEQ would be required to hold a public meeting, which would allow for questions and answers as well as public comment.

3. The public meeting would be held after DEQ determined the application is complete, because the purpose of the public meeting would be to receive public comment on the content of the plan of operation. DEQ would not review the content of the application (acceptability review) until the application was complete. The meeting would presumably be held in the vicinity of the proposed operation. DEQ would be required to review and incorporate public comments into its acceptability review of the application.
4. The public meeting and the consideration of public comments would need to be completed within prescribed timelines for acceptability review, i.e., a maximum of 60 days, unless (a) “substantial issues” were identified from the public meeting, and (b) the life of the operation was proposed to exceed five years, in which case an additional maximum of 60 days could be added for acceptability review. If “substantial issues” were identified, but the life of the operation was proposed for less than five years, DEQ would be required to complete the acceptability review within the original 60-day maximum period. Within these timelines, DEQ would need to notify the applicant whether the application was acceptable or not, and if not, identify all deficiencies. If acceptable, DEQ must issue a permit.
5. MEPA analysis would also need to be completed within the prescribed time limits in assumption #4 above.
6. Although DEQ has published and sent out notices and conducted public meetings regarding environmental assessments on some opencut permit applications with high public interest in the past several years, this bill would require routine notices and opportunities for public meetings on new mine site applications. Thus, it is anticipated that DEQ would be required to conduct considerably more such public events than it has in the past. Based on the previous years of permitting activity it is anticipated that DEQ would process an estimated average of 75 new permit applications in each fiscal year in the next two biennia and that an estimated average of 35 of these applications would have public interest and concern resulting in 35 public meetings per fiscal year. This does not include the possibility of additional applications being submitted in the next few years due to the impending federal stimulus package.
7. It is anticipated that 2.00 FTE environmental specialists, 1.00 FTE administrative assistant, contracted services of a court recorder, and room and equipment rental would be needed to implement this bill. Personal services (salaries and benefits) costs would be: \$143,197-FY 2010 and FY 2011, \$146,778-FY 2012, and \$150,447-FY 2013. Operating expenses would be \$95,644-FY 2010, \$86,964-FY 2011, \$88,673-FY 2012, and \$94,832-FY 2013, which includes supplies, travel, communications, education/training, contracts, and agency indirect costs. There is a 2.5% inflation factor applied to FY 2011-2013 and higher costs in the first year are for office set up purposes.
8. There would be an average of approximately three meetings per month throughout each year for which DEQ would be responsible. The new environmental specialists would be responsible for reviewing and/or approving draft public notices before publication and mailing by permit applicants; preparing for, attending, and possibly conducting public meetings; answering questions at public meetings; reviewing written and verbal comments; conducting the associated permit application acceptability reviews, and drafting up notifications to applicants of the results of these reviews; and MEPA analysis. The additional administrative assistant would be needed for conducting the five-business-day administrative completeness reviews of all applications, and drafting and sending notifications to applicants of the results of these reviews; tracking and filing of documentation of notices submitted by permit applicants; preparing public notices for hearings; compiling and filing written and verbal public comments; and contracting with court recorders and arranging room and sound equipment rental. Additional supervisory and perhaps legal support would also be required for general oversight and for attending and conducting public meetings. It is also expected that there would be additional phone calls, e-mails, and perhaps letters

from the public regarding public meetings, site issues, complaints, questions, etc. that would need to be received and handled by DEQ.

9. There is no funding provided in this bill. Therefore, general fund is assumed.

	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>	<u>FY 2012 Difference</u>	<u>FY 2013 Difference</u>
<u>Fiscal Impact:</u>				
FTE	3.00	3.00	3.00	3.00
<u>Expenditures:</u>				
Personal Services	\$143,197	\$143,197	\$146,778	\$150,447
Operating Expenses	<u>\$95,644</u>	<u>\$86,964</u>	<u>\$88,673</u>	<u>\$94,832</u>
TOTAL Expenditures	<u><u>\$238,841</u></u>	<u><u>\$230,161</u></u>	<u><u>\$235,451</u></u>	<u><u>\$245,279</u></u>
<u>Funding of Expenditures:</u>				
General Fund (01)	<u>\$238,841</u>	<u>\$230,161</u>	<u>\$235,451</u>	<u>\$245,279</u>
TOTAL Funding of Exp.	<u><u>\$238,841</u></u>	<u><u>\$230,161</u></u>	<u><u>\$235,451</u></u>	<u><u>\$245,279</u></u>
<u>Revenues:</u>				
General Fund (01)	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
TOTAL Revenues	<u><u>\$0</u></u>	<u><u>\$0</u></u>	<u><u>\$0</u></u>	<u><u>\$0</u></u>
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>				
General Fund (01)	(\$238,841)	(\$230,161)	(\$235,451)	(\$245,279)

Effect on County or Other Local Revenues or Expenditures:

- Counties, as well as private companies, hold opencut mining permits. Counties would be required to publish and send out public notices for mine permit applications on new sites. The costs and time to counties to comply with this requirement would be quite variable. For proposed county operations in sparsely populated areas, there may be a small impact to their resources. For proposed county operations in more highly populated areas, the impact could be considerably larger.

Technical Notes:

- On page 5, line 6, the description of an acceptable application is essentially the same as the description of a complete application on page 4, lines 19-20, which is that it contains all required components but that those components may or may not meet the requirements of the Opencut Mining Act and rules. Upon finding an application acceptable, the department is required to issue the permit. Therefore, an acceptable application should be described as one that contains components that meet those requirements. Page 5, line 6, should be amended to provide this.
- On page 5, line 13, elimination of "either or both" creates an ambiguity as to whether two extensions of up to 30 days each may be granted or whether the total of both extensions combined may not exceed 30 days.

Sponsor's Initials

Date

Budget Director's Initials

Date